REMARKS

Applicants appreciate the thorough examination of the present application as reflected in the Official Action mailed April 4, 2004.

With regard to the comments on the specification, Applicants note that the serial numbers have been provided in the application as filed. With regard to the status of the applications, Application Serial No. 09/693,268 remains pending and an Official Action has issued and a response has been filed. Application Serial No. 09/645,651 has received a Notice of Allowance but has not yet issued as a patent.

The IDS

Applicants wish to bring to the attention of the Examiner a Supplemental Information Disclosure Statement that is being filed concurrently herewith. The Supplemental Information Disclosure Statement includes materials from the parent application and its parent application. Applicants request that the PTO-1449 form be initialed indicating consideration of these materials and the initialed form returned with any subsequent communication.

The Section 112 Rejections

Claims 27-31 stand rejected under 35 U.S.C. §112, second paragraph as being indefinite. Applicants have amended Claim 27 to recite a "send message" application program interface. Accordingly, Applicants submit that the rejection of Claims 27-31 has been overcome.

The Anticipation Rejections

Claims 1-35 stand rejected as anticipated by United States Patent No. 6,631,122 to Arunachalam et al (hereinafter "Arunachalam"). Claims 1, 23, 27 and 32-35 are independent claims.

Claims 1-22

In rejecting Claim 1, the Official Action cites to col. 4, lines 60-63, col. 6, lines 1-3 and 13-4 and col. 11, lines 8-11 of Arunachalam as disclosing "providing transaction service level information for a data transmission transaction to a communication process executing on a data processing system from an application

requesting the data transmission transaction, wherein the transaction service level information is provided separate from data for the data transmission transaction." Official Action, p. 3. The Official Action also cites to col. 6, lines 1-3 and col. 7 lines 60-63 of Arunachalam as disclosing "determining a quality of service level associated with the data transmission transaction based on the transaction service level information received by the communication process from the application." Official Action, p. 3. Applicants submit that the cited portions of Arunachalam do not disclose or suggest each of the recitations of Claim 1 for at least the reasons discussed below.

As mentioned above, Claim 1 has been amended to clarify that the communication process and the application requesting the data transmission are executing on the same data processing system. Thus, Claim 1 recites:

> 1. (Currently Amended) A method for providing transactional quality of service, the method comprising the steps of:
>
> providing transaction service level information for a data transmission transaction to a communication process executing on a data processing system from an application executing on the data processing system requesting the data transmission transaction, wherein the transaction service level information is provided separate from data for the data transmission transaction; and
>
> determining a quality of service level associated with the data transmission transaction based on the transaction service level information received by the communication process from the application.

Applicants submit that the cited portions of Arunachalam do not disclose an application and a communication process executing on the same data processing system where the application provides transaction service level information for a data transmission transaction to the communication process separate from the data from the data transmission transaction. Furthermore, the cited portions of Arunachalam also do not disclose that a quality of service is determined based on transaction service level information received from the application.

Turning to the specifics of the rejection, col. 4, lines 60-63 of Arunachalam states:

> In accordance with the teachings of the present invention, the QoS Manager/Agent provides additional guarantee to the QoS parameters, namely, delay, jitter, bandwidth and reliability, pertaining to user applications. The complexity of

Arunachalam, col. 4, lines 60-63. This portion of Arunachalam says nothing about an application or a communication process or providing transaction service level information separate from data to the communication process as recited in Claim 1.

The Official Action further cites to col. 6, lines 1-3 and 13-14, which state:

> QoS is specified in an IP packet in a Diff-serv network by marking a certain byte referred to as the Type-of-Service and Digital Signal (ToS/DS) byte. In the proposed framework,

Arunachalam, col. 6, lines 1-3; and

> QoS parameters like delay, jitter, Bit Error Rate (BER), throughput etc are dictated by the application requirements.

Arunachalam, col. 6, lines 13-14. While these portions of Arunachalam mention an application, there is no indication that the application specifies the transaction service level information to a communication process or that the communication process and the application are executing on the same data processing system. It is also unclear if the use of the word "application" is a reference to an application program or is a more generic reference to the reason for use of the network, such as for voice or video communications, downloads, web browsing or the like.

The Official Action also cites to col. 11, lines 8-11 of Arunachalam, which states:

> The user terminal may be capable of marking an IP packet with a specific ToS/DS byte for the type of service it demands. In that case, it will indicate to wireless QoS agent 801 that the ToS/DS byte has been marked. Wireless QoS

Arunachalam, col. 8, lines 8-11. Applicants submit that this portion of Arunachalam does not disclose or suggest providing transaction service level information from an application to a communication process executing on the same data processing system separate from the data for transmission as recited in Claim 1.

Finally, in rejecting Claim 1, the Official Action cites to col. 7, lines 60-63 of Arunachalam, which states:

> For the first packet of a new flow, QoS mapping function 803 extracts the ToS (or DS) byte of the IP header and the <source address/port, destination address/ports>field. The ToS/DS byte indicates the QoS desired by the IP packet. The

Arunachalam, col. 7, lines 60-63. However, this portion of Arunachalam also does not disclose that the transaction service level information is provided by an application to a communication process separate from the data and is used to determine the quality of service of a transaction as recited in Claim 1. This portion of Arunachalam appears to describe the use of an IP header for determining QoS within the network, not between an application and a communication process.

In light of the above discussion, Applicants submit that the recitations of Claim 1 are neither disclosed nor suggested by the cited portions of Arunachalam. In particular, the cited portions of Arunachalam do not appear to describe an application and a communication process executing on a data processing system where the application specifies service level information to the communication process separate from the data for a communication transaction. In particular, it does not appear that the cited portions of Arunachalam are directed to the interactions between an application and a communications process as recited in Claim 1 but appear to be directed to the determination of the QoS of packets as they are transmitted through the network. Accordingly, Applicants submit that Claim 1 is patentable over the cited portions of Arunachalam. Applicants submit that each of the dependent Claims 2-22 are patentable at least as depending from a patentable base claim.

Claims 23-26

Claim 23 is rejected based on the portions of Arunachalam cited above with reference to Claim 1. Official Action, p. 5. However, Claim 23 recites:

> 23. (Original) A method for establishing a quality of service level for the transmission of data, comprising:
>
> providing an application program interface to a communications process which both receives data to be transmitted by the communication process and receives quality of service information associated with the data to be transmitted so as to establish the quality of service level for the transmission of the received data without reference to the contents of the received data to be transmitted.

Applicants submit that the above cited portions of Arunachalam do not even mention an application program interface ("API") of a communications process as recited in Claim 23. Thus, the cited portions of Arunachalam do not appear to disclose an API

that provides data and quality of service information associated with the data to a communications process that, in turn, establishes a quality of service level without reference to the contents of the data to be transmitted as recited in Claim 23. Accordingly, Applicants submit that Claim 23 is not anticipated by the cited portions of Arunachalam. Applicants submit that each of the dependent Claims 24-26 are patentable at least as depending from a patentable base claim.

Claims 27-31

The Official Action rejects Claim 27 based on the same portions of Arunachalam cited against Claim 1 and reproduced above. Official Action, p. 5. However, Claim 1 recites:

> 27. (Currently Amended) A system for establishing a quality of service level for transmitted data, comprising:
> a communications process circuit comprising:
> a send message application program interface configured to receive data to be transmitted and quality of service information associated with the data to be transmitted;
> a policy service module configured to determine a quality of service level based on the quality of service information; and
> a transmit/receive process configured to transmit the received data utilizing the determined quality of service level.

Applicants submit that the cited portions of Arunachalam do not disclose or suggest the specific configuration of the communication process circuit recited in Claim 27. For example, the cited portions of Arunachalam do not even mention a send message application program interface as recited in Claim 27. As such, Applicants submit that Claim 27 is not anticipated by the cited portions of Arunachalam. Applicants submit that each of the dependent Claims 28-31 are patentable at least as depending from a patentable base claim.

Claims 32-35

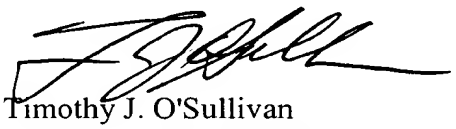
Applicants submit that Claims 32-35 are patentable over the cited portions of Arunachalam for reasons analogous to those discussed above with reference to Claims 1 and 23.

Conclusion

In light of the above discussion, Applicants submit that the present application is in condition for allowance, which action is respectfully requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (919) 854-1400.

It is not believed that an extension of time and/or additional fee(s)-including fees for net addition of claims-are required, beyond those that may otherwise be provided for in documents accompanying this paper. In the event, however, that an extension of time is necessary to allow consideration of this paper, such an extension is hereby petitioned for under 37 C.F.R. §1.136(a). Any additional fees believed to be due in connection with this paper may be charged to Deposit Account No. 09-0461.

Respectfully submitted,



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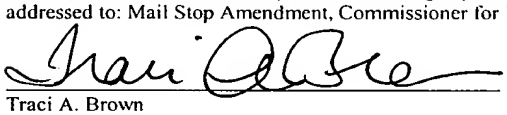
CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 1, 2004.



Traci A. Brown
Date of Signature: July 1,2004